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4 UNITED STATES DISTRICT COURT
5 DISTRICT OF NEVADA
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7 KEVIN ZIMMERMAN,
8 Plaintiff,

9 vs.

10 DUAL ALLIANCE, L.L.C.
11 dba RIDER'S,

12 Defendant.

Case No. 2:17-cv-01443-GMN-GWF

REPORT AND
RECOMMENDATION

13 Plaintiff's Complaint (ECF No. 1) was filed on May 19, 2017. Therefore, the time limit for
14 service on Defendant was August 17, 2017. On August 31, 2017, the Court filed a Notice of Intent
15 to Dismiss Pursuant to Rule 4(m) for Plaintiff's failure to provide proof of service on Defendant.
16 See ECF No. 7. The Court gave Plaintiff until September 29, 2017 to file a proof of service and
17 demonstrate that Defendant was served prior to the expiration of the 90-day time limit set forth in
18 Fed. R. Civ. P. 4(m). *Id.* Plaintiff was cautioned that failure to comply with the Court's notice
19 could result in a dismissal of the action. *Id.* Rather than file a proof of service, Plaintiff filed a
20 Motion to Extend Time for Service on September 1, 2017. See ECF No. 8. The Court denied
21 Plaintiff's motion, without prejudice, on September 7, 2017 because Plaintiff did not adequately
22 demonstrate whether good cause existed to grant the requested extension. See *Order* (ECF No. 9).
23 To date, Plaintiff has not filed a renewed motion for extension of time or filed a proof of service
24 with the Court. Therefore, it appears that Plaintiff has abandoned this lawsuit. Accordingly,

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1 **IT IS HEREBY RECOMMENDED** that this case be **dismissed** without prejudice for
2 Plaintiff's failure to prosecute.

3 DATED this 12th day of October, 2017.

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6 GEORGE FOLEY, JR.
7 United States Magistrate Judge

8 **NOTICE**

9 Pursuant to Local Rule IB 3-2, any objection to this Finding and Recommendation must be
10 in writing and filed with the Clerk of the Court within fourteen (14) days. The Supreme Court has
11 held that the courts of appeal may determine that an appeal has been waived due to the failure to file
12 objections within the specified time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985). This circuit has
13 also held that (1) failure to file objections within the specified time and (2) failure to properly
14 address and brief the objectionable issues waives the right to appeal the District Court's order and/or
15 appeal factual issues from the order of the District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157
16 (9th Cir. 1991); *Britt v. Simi Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).
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